

1 Q I beg your pardon?

2 A Yes.

3 Q What have been the sources of the capital  
4 contributions you've made?

5 A Actual money being put into the partnership.

6 Q Okay, and where has that money originated  
7 from?

8 A Personal money.

9 Q And, could you describe what you mean by  
10 personal money?

11 A Money out of our savings account, money out  
12 of --

13 Q Excuse me, let's take them one at a time.

14 A Okay.

15 Q Savings account? You have a joint savings  
16 account?

17 A Yes.

18 Q And, money going into that joint savings  
19 account will come from where?

20 A From payroll checks.

21 Q Payroll checks?

22 A Charley's and mine.

23 Q Both of you?

24 A Yes.

25 Q Okay. Go ahead, next source.

1           A     Payroll checks directly into the account.

2           Q     Okay. And, would that be your personal  
3 payroll checks?

4           A     Yes.

5           Q     And, go ahead, any other sources?

6           A     Not that I can think of.

7           Q     Did you and Mr. White take out a loan of some  
8 kind jointly?

9           A     Not that I can remember.

10          Q     You don't recall borrowing any money to  
11 provide funds to White Broadcasting Partnership?

12          A     Not off the top of my head. I don't remember  
13 that, no.

14          Q     Have you personally made any loans to White  
15 Broadcasting Partnership?

16          A     No.

17          Q     Turning your attention to page 9 in Exhibit  
18 1, looking at the upper right-hand corners for page  
19 numbers.

20          A     Okay.

21          Q     Section 7.01. I'm going to ask you a  
22 question concerning the first paragraph, 7.01. So, if  
23 you would like to read that and the subsequent 5. and  
24 7.01 to familiarize yourself, feel free. The question  
25 will be directed to the first paragraph.

1 All right, the second sentence of 7.01 says:  
2 Subject to any limitations expressly set forth in this  
3 agreement, the partners shall have power and authority  
4 to take such action from time to time as he may deem to  
5 be necessary, appropriate or convenient in connection  
6 with the management and conduct of the business in  
7 affairs of the partnership including without limitation  
8 the power to, and then it lists the five subsequent  
9 specific powers.

10 My questions to you is, looking at that  
11 sentence I just read to you, is it your understanding  
12 that either partner may undertake the five specific  
13 powers identified in 7.01?

14 A Yes.

15 Q Either of you could do that without the  
16 other?

17 A Yes.

18 Q Mrs. White, are you personally liable for the  
19 debts of White Broadcasting Partnership?

20 A Yes, I am.

21 MR. WINSTON: No further questions, Your  
22 Honor.

23 JUDGE LUTON: I beg your pardon?

24 MR. WINSTON: No further questions.

25 JUDGE LUTON: Thank you, Mrs. White.

1 THE WITNESS: Thank you.

2 (Witness excused.)

3 JUDGE LUTON: Is Peaches ready to proceed?

4 Let's take a ten minute recess and the we'll  
5 proceed with Peaches' direct case.

6 (Whereupon, a brief recess was taken.)

7 JUDGE LUTON: On the record.

8 Are you ready now to proceed with Peaches'  
9 direct case?

10 MR. WINSTON: We are ready, Your Honor.

11 What is your plan -- what time do you plan on  
12 finishing today?

13 JUDGE LUTON: I'm going to quit at 4:00 today  
14 and each day thereafter, so long as we go. We are not  
15 going to finish the whole thing today, so we will start  
16 tomorrow, and each subsequent day, at 9:30 in the  
17 morning, instead of 10:00.

18 MR. WINSTON: Thank you, Your Honor.

19 JUDGE LUTON: Would you take the stand,  
20 please. Raise your right hand, please.  
21 Whereupon,

22 FREDERICK D. MATHEWS  
23 was called as a witness, and having been first duly  
24 sworn, was examined and testified as follows:

25 JUDGE LUTON: Please be seated.

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DIRECT EXAMINATION

BY MR. HONIG:

Q Will you state your full name for the record,  
please.

A Frederick D. Mathews.

Q And your address?

A 9130 11th Avenue, Jacksonville, Florida.

MR. HONIG: Your Honor, let the record  
reflect that I am handing the court reporter two copies  
of a bound package entitled Peaches Broadcasting  
Limited Direct Case Exhibits, which contains six  
exhibits that I would like to have marked for  
identification as Peaches Exhibits 1 through 6 and I  
will further identify them momentarily.

Does Your Honor need to know --

JUDGE LUTON: No, I do not, thank you.

MR. HONIG: Here is a set for the witness,  
also.

BY MR. HONIG:

Q First, Mr. Mathews, I would like to direct  
your attention to a four-page document labeled Peaches  
Exhibit 1, the Applicant, and I would like to ask that  
that be marked for identification as Peaches Exhibit 1.

JUDGE LUTON: It is so marked.

1 (The document referred to  
2 above was marked Peaches  
3 Exhibit No. 1 for  
4 identification.)

5 BY MR. HONIG:

6 Q Mr. Mathews, will you please turn to page 3  
7 of Peaches Exhibit 1.

8 A Yes, sir.

9 Q Is that your signature that appears there?

10 A Yes, it is.

11 Q And, have you examined the exhibit?

12 A Yes, I have.

13 Q Is the Exhibit accurate in all respects?

14 A Yes, it is.

15 MR. HONIG: Your Honor, I would move Peaches  
16 Exhibit 1 into evidence.

17 JUDGE LUTON: 1 is received.

18 (The document heretofore  
19 marked Peaches Exhibit No. 1  
20 for identification was  
21 received into evidence.)

22 BY MR. HONIG:

23 Q Now, Mr. Mathews, I would also like you to  
24 turn your attention to a three-page exhibit entitled  
25 Peaches Exhibit 2, Diversification of Control of Media

1 of Mass Communication. Do you have that exhibit before  
2 you?

3 A Yes, I do.

4 MR. HONIG: I would like to ask that that be  
5 marked for identification as Peaches Exhibit 2.

6 JUDGE LUTON: Marked as 2.

7 (The document referred to  
8 above was marked Peaches  
9 Exhibit No. 2 for  
10 identification.)

11 BY MR. HONIG:

12 Q Mr. Mathews, would you please turn to page  
13 two of Peaches Exhibit 2.

14 A Yes.

15 Q Is that your signature?

16 A Yes, it is.

17 Q Have you examined the exhibit?

18 A Yes, I have.

19 Q And, is the exhibit accurate?

20 A It is.

21 MR. HONIG: Okay. I would move Peaches  
22 Exhibit 2 into evidence, Your Honor.

23 JUDGE LUTON: 2, Diversification is moved.  
24 Any objection?

25 (No response.)

1 JUDGE LUTON: It's received.

2 (The document heretofore  
3 marked Peaches Exhibit No. 2  
4 for identification was  
5 received into evidence.)

6 BY MR. HONIG:

7 Q Now, Mr. Mathews, I next would to ask you to  
8 turn to a nine-page exhibit identified as Peaches  
9 Exhibit 3, Profile and Integration of Proposal of  
10 Peaches Broadcasting, Limited, and would first ask that  
11 it be marked for identification as Peaches Exhibit 3.

12 JUDGE LUTON: Three is marked.

13 (The document referred to  
14 above was marked Peaches  
15 Exhibit No. 3 for  
16 identification.)

17 BY MR. HONIG:

18 Q Mr. Mathews, would you please turn to page 8  
19 of Peaches Exhibit 3.

20 A Yes, sir.

21 Q Is that your signature?

22 A Yes, it is.

23 Q Have you examined the exhibit?

24 A Yes, I have.

25 Q Is the exhibit accurate?



1           A     Yes, it is.

2                   MR. HONIG: Your Honor, I would move Peaches  
3 Exhibit 3 into evidence.

4                   JUDGE LUTON: 3 is moved. Any objection to  
5 3?

6                   MR. WINSTON: Yes, Your Honor.

7                   Peaches Exhibit 3, page 5 of 9 -- prior  
8 ruling, I still make my objection for the record on the  
9 last two items listed as civic activities on that page  
10 that commenced subsequent to the filing of the  
11 application. I move to strike both of those.

12                  JUDGE LUTON: All right. Again, my ruling is  
13 that I don't believe that what is stated constitutes an  
14 evidentiary objection. It's one which goes to the  
15 weight, if any, to be given to those recent activities.

16                  The objection is overruled.

17                  MR. WINSTON: On page 7 of 9 there are two  
18 items there listed at the bottom of page 7, Mrs.  
19 Mathews has no broadcast experience but has media  
20 experience transferrable to broadcasting as follows.

21                  I would move that that and the remainder of  
22 that page be stricken as outside --

23                  JUDGE LUTON: Well, the claim isn't for  
24 broadcast experience here, Mr. Honig. What is it for?

25                  MR. HONIG: Your Honor, these are offered

1       because of the Commission's growing flexibility to  
2       claims other than broadcast station employment as  
3       exemplified by the Sorenson decision. That decision,  
4       of course, involved cable television.

5               I believe that these are of a similar nature  
6       in that they are closely enough -- they involve  
7       activities closely related to broadcasting, interacting  
8       with broadcasting stations, performing functions of the  
9       type performed in broadcasting stations, and I  
10      certainly think that it is appropriate to leave them in  
11      but allow them to be tested on cross examination.

12             JUDGE LUTON: All right. So, while this  
13      isn't offered as broadcast station experience, it's  
14      nevertheless offered as broadcast experience of a kind  
15      that the Commission's pronouncements comprehend, is  
16      what you are saying?

17             MR. HONIG: That's my intention, yes.

18             JUDGE LUTON: All right. Well, I'm not able  
19      to decide the matter at this point. I'll permit the  
20      parties to let the record develop as it will and argue  
21      the point and propose findings. So I'm reserving on  
22      that objection.

23             Any other objections to 3?

24             MR. WINSTON: No other objections, Your  
25      Honor.

1 JUDGE LUTON: 3, then, is received.

2 (The document heretofore  
3 marked Peaches Exhibit No. 3  
4 for identification was  
5 received into evidence.)

6 BY MR. HONIG:

7 Q Mr. Mathews, I'm going to ask that you turn  
8 your attention to a three-page document entitled  
9 Peaches Exhibit 4, Auxiliary Power. Do you have that  
10 before you?

11 A Yes, I do.

12 Q Would you -- I would first like to ask that  
13 Peaches -- that this be marked for identification as  
14 Peaches Exhibit 4.

15 JUDGE LUTON: It's marked as 4.

16 (The document referred to  
17 above was marked Peaches  
18 Exhibit No. 4 for  
19 identification.)

20 BY MR. HONIG:

21 Q Mr. Mathews, would you turn to page 2 of  
22 Peaches Exhibit 4.

23 A I have.

24 Q Is that your signature?

25 A Yes, it is.

1 Q Have you examined the exhibit?

2 A Yes, I have.

3 Q Is it accurate?

4 A Yes, it is.

5 MR. HONIG: Your Honor, I would move Peaches  
6 Exhibit 4 into evidence.

7 JUDGE LUTON: Auxiliary Power, it's received.  
8 (The document heretofore  
9 marked Peaches Exhibit No. 4  
10 for identification was  
11 received into evidence.)

12 BY MR. HONIG:

13 Q Now, Mr. Mathews, I would next ask you to  
14 turn to a 65-page package of documents, which I will  
15 identify with more specificity, which has been labeled  
16 Peaches Exhibit 5.

17 (The document referred to  
18 above was marked Peaches  
19 Exhibit No. 5 for  
20 identification.)

21 MR. HONIG: Your Honor, it is our intention  
22 here to be offering the organizational documents as  
23 amended in one package for the sake of simplicity.

24 To identify them properly, pages 1 through 50  
25 of this exhibit are the Peaches Broadcasting Limited

1 Partnership Agreement; pages 51 through 54 are the  
2 certificate of limited partnership; pages 55 through 58  
3 are the revised certificate of limited partnership;  
4 page 59 is amendment No. 1 to Peaches Broadcasting  
5 Limited Partnership Agreement; pages 60 through 63 is  
6 the amended and restated certificate of limited  
7 partnership; and then the remaining two pages are the  
8 supportive affidavits of Frederick Mathews, page 64,  
9 and Anna Mathews, page 65.

10 JUDGE LUTON: And, altogether it constitutes  
11 the entire set of organizational documents?

12 MR. HONIG: It's intended to, Your Honor.

13 JUDGE LUTON: Any objection?

14 (No response.)

15 JUDGE LUTON: It's received.

16 (The document heretofore  
17 marked Peaches Exhibit No. 5  
18 for identification was  
19 received into evidence.)

20 MR. HONIG: The witness is available -- oh,  
21 I'm sorry. There is Exhibit 6.

22 BY MR. HONIG:

23 Q Mr. Mathews, would you please turn your  
24 attention to the seven-page document entitled Peaches  
25 Exhibit 6. It begins with a two-page table entitled

1 declaration of Thomas J. Johnson, with maps showing  
2 addresses of Fred and Anna Mathews and listed addresses  
3 with time periods of residences. That's pages one and  
4 two.

5 Pages three and four are in fact Mr.  
6 Johnson's declaration under penalty of perjury. He is  
7 the applicant's engineer.

8 Page five is a map supporting Mr. Johnson's  
9 declaration and prepared by him.

10 Pages six and seven are the affidavits of  
11 Fred, page 6, and Anna, page 7, Mathews.

12 Mr. Mathews, would you --

13 MR. HONIG: Well, first, may I ask that the  
14 entire exhibit be marked as Peaches Exhibit 6.

15 JUDGE LUTON: Marked as 6.

16 (The document referred to  
17 above was marked Peaches  
18 Exhibit No. 6 for  
19 identification.)

20 BY MR. HONIG:

21 Q And, Mr. Mathews, would you turn to page 6 of  
22 Peaches Exhibit 6.

23 A Yes.

24 Q Is that your signature?

25 A Yes, it is.

1 Q Have you examined the exhibit?

2 A Yes, I have.

3 Q Now, to the best of your knowledge, is the  
4 information contained in Peaches Exhibit 6 accurate?

5 A Yes, to the best of my knowledge.

6 MR. HONIG: Your Honor, I would move Peaches  
7 Exhibit 6 into evidence?

8 JUDGE LUTON: Any objection?

9 (No response.)

10 JUDGE LUTON: 6 is received.

11 (The document heretofore  
12 marked Peaches Exhibit No. 6  
13 for identification was  
14 received into evidence.)

15 MR. HONIG: The witness is available for  
16 cross examination.

17 JUDGE LUTON: Who wishes to proceed?

18 Mr. and Mrs. White, you also have the  
19 opportunity and the right to cross examine the witness.

20 CROSS EXAMINATION

21 BY MR. WINSTON:

22 Q Mr. Mathews, how did you become aware that  
23 the frequency would be available for a new station in  
24 Baldwin, Florida?

25 A Specifically, I don't recall exactly how I

1       became aware of it. But I was involved in a great deal  
2       of broadcast activities at this time and through a  
3       number of sources, local journalism association,  
4       through the NAACP, my involvement there, I think I  
5       became aware of it at that time.

6               Q     When did you first take any specific steps  
7       toward applying for the Baldwin frequency?

8               A     About late summer of 1989.

9               Q     Could you describe what you did?

10              A     Through several conversations with Mr. Honig,  
11       who is, of course, now counsel, we talked about some  
12       specifics about what would need to be done. My wife  
13       and I talked it over. We talked it over with several  
14       other folks who were owners of stations, and make a  
15       determination that this would provide an opportunity  
16       for us to possibly own a station. We did it that way.

17              Q     And, after you talked with Mr. Honig, did you  
18       take any -- what specific steps did you take after that  
19       to begin preparation of an application?

20              A     Well, we made a determination as to what  
21       would be the best way to pursue it in terms of  
22       financing, of course, prosecution. We then came down  
23       to a determination of going the route of partnership  
24       and we made the determination that we would retain Mr.  
25       Honig as counsel.



1           Q     And you said you made a decision to make a  
2     partnership. Did you at that time make a decision to  
3     make it a limited partnership?

4           A     At the time, of course, we were not aware of  
5     all legal frameworks. We talked with counsel and the  
6     determination that we came out with that we would go  
7     the route of a limited partnership.

8           Q     And, at the time you decided to file the  
9     limited partnership, did you also decide at that time  
10    who the general partner of that limited partnership  
11    would be?

12          A     No, we did not.

13          Q     The general partner of Peaches Broadcasting  
14    Limited is who?

15          A     The general manager is Peaches Productions  
16    Group, Inc.

17          Q     What is the business of Peaches Production  
18    Group, Inc.?

19          A     It provides media services, consultant  
20    services. That's in general what we -- what we  
21    indicate we do. We are a media services company.

22          Q     And that's an on-going business at this time?

23          A     Yes, it is.

24          Q     When was that business started?

25          A     It started in early 1988, as I recall.

1           Q     And who are the principals of Peaches  
2     Production?

3           A     Frederick and Anna Mathews.

4           Q     When was it decided that Peaches Production  
5     would be the general partner of Peaches Broadcasting  
6     Limited?

7           A     Again, a specific time? It was determined I  
8     think at the point certainly that we decided that we  
9     were going to be a limited partnership. Looking at  
10    what we already had established, that being one of the  
11    things that group, Peaches Productions Group, was set  
12    up to do, that was a full gone conclusion that the  
13    company would be the general partner.

14          Q     Did you ever consider that Peaches Production  
15    Group would file on its own as the applicant?

16          A     Yes, we did.

17          Q     And what caused you to decide not to do that?

18          A     The nature of the process of applying for a  
19    construction permit.

20          Q     Could you tell me what you mean by that?

21          A     Well, it's a very lengthy process and a  
22    limited partnership provided us with two basic  
23    elements, and that is, ready access to cash and control  
24    over the process, that we would remain in control over  
25    the process in difference to some other form of

1 collaboration.

2 Q So, one of the principal considerations in  
3 choosing a limited partnership form was that it  
4 provided you access to additional capital?

5 A Capital and control.

6 Q Looking at the capital aspect, once you  
7 decided to be a limited partnership, how did you go  
8 about deciding who the limited partners would be?

9 A Well, we -- certainly I knew a number of  
10 persons in and around Jacksonville and around the  
11 country who could be possibilities. Many of them have  
12 some knowledge of the process of applying for CP's,  
13 many others don't.

14 So, certainly we made a list of persons that  
15 we would approach and we began to talk to those  
16 persons, both in Jacksonville and around the State and  
17 in some places around the country.

18 Q Who was the first limited partner of Peaches  
19 Broadcasting Limited?

20 A Peaches Broadcasting.

21 Q Peaches Broadcasting Limited, who was the  
22 first limited partner?

23 A Steve Weissman.

24 Q How did you come to involve Mr. Weissman as a  
25 limited partner?

1           A     We had -- in our process of looking for  
2     limited partners and obviously having retained counsel,  
3     we instructed him to use his experience and expertise  
4     in also coming up with names. That was one of the  
5     names suggested among many we talked to. I called  
6     Steve and talked with him about it.

7           Q     You called Steve Weissman at Mr. Honig's  
8     suggestion?

9           A     Not necessarily his suggestion, but that's  
10    the only way I could contact him. I had to call him.  
11    That was one of the list of names we had. So, I called  
12    him.

13          Q     Okay, but Mr. Honig gave you that name?

14          A     Yes.

15          Q     And said, this is somebody who might be  
16    interested in being your limited partner?

17          A     That's correct.

18          Q     And, did Mr. Honig state how he knew Mr.  
19    Weissman?

20          A     No, he did not.

21          Q     Did he state that he had ever represented Mr.  
22    Weissman previously?

23          A     I think in subsequent conversations,  
24    possibly. But I did not inquire to him that deeply  
25    about it.

1                   Again, Mr. Honig has the experience in these  
2 matters. We retained him for that purpose, of  
3 assisting us.

4                   Q     So, prior to your calling Mr. Weissman, Mr.  
5 Honig had not told you that he had represented him  
6 previously. That's your testimony?

7                   A     I don't recall.

8                   Q     Did Mr. Honig tell you that Mr. Weissman had  
9 an application pending at the FCC at that time?

10                  A     That specifically, again, I don't recall.

11                  Q     You were aware of that later?

12                  A     Subsequent to talking to Mr. Weissman, yes.

13                  Q     All right. Your first conversation with Mr.  
14 Weissman was a call you placed to him, is that correct?

15                  A     Yes.

16                  Q     And, it was just the two of you on that call?

17                  A     I believe so, yes.

18                  Q     Mr. Honig was not on that call?

19                  A     No.

20                  Q     Your wife was not on that call?

21                  A     No, I don't think so.

22                  Q     Could you tell me what transpired in that  
23 phone call?

24                  A     We talked about mutual interest, things that  
25 he had been involved in in terms of broadcasting, his

1 knowledge about Jacksonville, about Baldwin. We found  
2 out subsequently that we had a mutual acquaintance in  
3 his area and we pretty much hit it off at that point  
4 and we set up an opportunity for us to talk face to  
5 face.

6 Q Where did Mr. Weissman reside at the time you  
7 made that call to him?

8 A He resided on the West Coast of Florida,  
9 Madeira Beach.

10 Q And what was his -- you said he had some  
11 connection with Baldwin?

12 A Well, no, he did not. He had some  
13 connections out of Tampa with a mutual interest of  
14 ours. One of my NAACP acquaintances in Tampa.

15 Q Did you testify that he knew something about  
16 Baldwin?

17 A No. I said that we talked about some of the  
18 things about Jacksonville and about Baldwin. I don't  
19 think he knew very much about Baldwin, if anything at  
20 all, at that point.

21 Q Did he know anything about Jacksonville?

22 A Very little, from what I was able to gather.  
23 Obviously, Jacksonville is a larger city. But, no, he  
24 had never resided there, to my knowledge.

25 Q In that first conversation with Mr. Weissman

1           when you telephoned him, Mr. Weissman agreed to be  
2           limited partner in Peaches Broadcasting Limited?

3           A     No.

4           Q     What was your next contact with Mr. Weissman  
5           after that first telephone conversation?

6           A     Again, specific day, I don't know and I don't  
7           -- I think we had another conversation. I'm not sure -  
8           - I'm not sure when the next contact was. I believe  
9           that -- well, I'm not sure of the next contact really.  
10          I'm not sure the next contact -- I just don't even want  
11          to speculate about it. I don't know.

12          Q     Tell me the next thing you recall with  
13          respect to Mr. Weissman becoming a limited partner in  
14          Peaches Broadcasting Limited?

15          A     We met.

16                 I went down to Tampa and we met and we talked  
17          about what we were going to get personally. I wanted  
18          to meet him and I'm sure he wanted to meet me. We  
19          talked about it. And again, we found that we could  
20          work together if this -- if the process went forward.  
21          I liked him; he liked me, and I think it was at that  
22          point that we pretty much agreed that we would go  
23          forward with it.

24          Q     Now, this is -- you said this was the meeting  
25          in Tampa?

1 A Yes.

2 Q Did Mr. Weissman make a commitment at that  
3 time that he was going to participate?

4 A Again, I don't know if it was at that time or  
5 whether it was in a conversation we had prior to that.  
6 But certainly by the time we did that meeting, at that  
7 meeting that pretty much, you know, sealed it as far as  
8 I was concerned.

9 Because, again, we did not -- the nature of  
10 the agreement was such that he would not be in a  
11 controlling interest. There was not a great deal to  
12 discuss about that. I think, as anybody would be, he  
13 was concerned about the investment that he was about to  
14 make.

15 So I think once we -- that was settled, we  
16 were able to go forth with it.

17 Q Was your conversation in Tampa the first time  
18 that you talked about the investment that he would  
19 make?

20 A Again, I don't recall.

21 Q You talked about it -- you did talk about it  
22 in Tampa?

23 A Yes.

24 Q Did you make a resolution of that matter in  
25 Tampa?



1           A     I don't think we did, no.

2           Q     You talked about how much money -- you talked  
3     about how much money he would be required to invest?

4           A     I don't recall.

5           Q     You don't recall if you talked about that?

6           A     I don't recall.

7           Q     Did you talk about how much equity ownership  
8     he would have?

9           A     No, I don't recall if we discussed that.

10          Q     You indicated a moment ago that in your mind  
11     his involvement with Peaches Broadcasting Limited was  
12     sealed in Tampa. My interpretation of that would be  
13     that all the important details had been ironed out at  
14     that time. Is that not -- that's not what you meant?

15          A     No, I think that the Tampa meeting was such  
16     that it allowed us to be comfortable with each other,  
17     with the nature of what we were going into. We had  
18     already decided from our standpoint that we would be  
19     going into a limited partnership. That entailed  
20     certain responsibilities.

21                 My understand is that I think he understood  
22     those responsibilities of a limited partner and the  
23     restrictions therein. It was just a matter of, as with  
24     any investor, him being comfortable with where his  
25     investment would be.